

REMARKS

Upon entry of the present paper the Claims under consideration remain 1-16 and 25-26. Applicants respectfully request reconsideration of the rejections of the Detailed Action dated 22 March 2004 based upon the following remarks.

Claim Rejections -35 USC § 102

Per paragraph 8 of the Detailed Action, Claims 1-16 and 25-26 stand rejected as anticipated by PCT publication no. WO 00/37723 (hereinafter "Clark"). Applicants respectfully traverse these rejections and request reconsideration based on the following remarks.

Applicants believe Clark is incorrectly characterized by the Detailed Action, at page 3, line 4 as disclosing: "that the fiber strands have an elastic core and adhesive surfaces that bond the first and second facing webs as per instant claim (sic) (see pages 3-4)."

Generally, Applicants were provided a copy of Clark with the Detailed Action which was not entirely legible and was taken from esp@cenet in a "description view" which only generally corresponds to the pagination of the actual reference (as submitted by Applicants in their Second Information Disclosure Statement). Applicants therefore refer to the format of the actual reference as published and enclose another copy of the reference for the Examiner's edification.

Applicants' have thoroughly reviewed the Clark reference and respectfully submit that the reference does not support a § 102 rejection. It is respectfully submitted that the Detailed Action has merely isolated certain elements of the claims without

viewing the invention as a whole in making the present rejection. Without implication as to the meaning or breadth of claims in the Clark reference, after careful study of Clark, Applicants do not believe that the reference teaches the present invention as a whole.

Applicants respectfully point to at least limitations c) and d) of each of independent Claims 1, 2, and 16, (and similarly, the method limitations c)-e) of Claim 26) wherein it is required that a laminate of the present invention have:

c) a plurality of thermoplastic elastomeric fibers (or "fiber strands" as in Claim 1) located between the first facing web and the second facing web; and

d) the fibers (or "fiber strands" as in Claim 1) having an elastic core and adhesive surfaces and bonding the first facing web and the second facing web together by contact adhesion with the adhesive surfaces of the fibers to create the elastic laminate.

Clark shows a laminate with two spunbond outer facings and a multicomponent meltblown layer therebetween. The illustrated mode of Clark for bonding is point bonding the laminate (see 18, line 1). While the use of "additional bonding processes" is mentioned (page 15, line 12), no special teaching consistent with the present invention is set forth which would direct the person having ordinary skill in the art to practice the present invention as a whole.

While Clark might generally mention elastomer fibers having adhesive components in one paragraph, as at page 5, line 23, Clark does not teach or suggest the claimed invention as a whole according to the present claims wherein the elastomeric fibers have an elastic core and sufficiently adhesive surfaces to bond two outer layers

with contact adhesion.¹ The multicomponent meltblown filaments between the nonwoven facing layers of Clark are not suggested anywhere in the reference to be concurrently elastic cored and adhesive surfaced to the point of being useful as an elastic element layer supporting contact adhesion of the laminate. To derive such a construction from Clark requires impermissible hindsight.

Nor does Clark particularly address the problems or claimed solutions of the present invention.

For example, at page 2, line 17 of the specification:

Hot melt applied adhesives may require the use of adhesives applied in a liquid state and may have problems including increased energy consumption, increased thickness, process control and change time, in addition to the above-stated problems. Meltbonding² of the facings may require that the facing webs or the elastic strands or webs, or both, of thermoplastic material be brought at least partially to their melting point in order to bond. These meltbonding techniques may share the same heat-associated problems as hot melt applications and may further suffer cosmetic and lamination strength problems as well as loss of cloth like feel.

And at page 4, line 6 of the specification:

Heretofore, no one is believed to have taught such an elastic laminate using tacky, or adhesive, elastomeric strands, because the person having ordinary skill in the art would likely consider such adhesive strands to be too difficult to work with in a practical manufacturing setting.

¹ The term "contact adhesion" or "contact adherence" refers to an adhesive system whereby a tacky surface adheres to create a bond without the necessity of one of the materials entering a liquid state to create the bond. (specification at page 6, line

7)

² as in the point bonding of Clark

As is clear from the above, Clark does not anticipate the independent Claims of the present invention. Consequently all other claims under consideration, as dependent therefrom, all also not anticipated. Applicants therefore respectfully request that all of the present rejections be withdrawn.

Specifically with respect to certain statements of the Detailed Action, Applicants comment as follows: At page 3, line 9 of the Detailed Action, the Office apparently contends that the autogenous bonding caused within a web by tackiness of freshly deposited meltblown fibers (as described in the reference) equates to the claimed tackifiers of Claims 5, 7, and 9. Applicants again note the definition of "contact adhesion" as set forth a page 6 of the specification and further note that the bonding of the present claims involves two facing webs and not an autogenous bonding as cited by the Detailed Action. Applicants further note that the reasons for the rejections of Claims 6, 11, 14, and 15 are not specifically addressed. Applicants respectfully request that if the present rejections are maintained, the Office issue a non-final Office Action clarifying the intent and the basis of these rejections in order that Applicants be given the right to fairly respond.

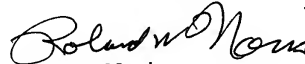
For all the foregoing reasons, all Claims under consideration are believed to be allowable over the art of record. A notice to that effect is earnestly solicited.

Request For Telephonic Interview

Clearly, there are differences between the present invention and the cited reference(s) involving patentable subject matter. These differences are believed by the Applicants to be properly defined in the present Claims. The Examiner is requested to call Applicants' attorney (per the provisions of M.P.E.P. § 713) to discuss any further problems or suggest solutions in defining the present invention in order to expedite the case towards allowance before issuing a final Office Action.

Favorable consideration is requested.

Respectfully submitted,



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